

EDITORIAL

This year's 8th Annual EU Tax Students' Conference at Queen Mary, University of London as usual produced some high quality discussions, papers and debates. This issue of the Journal features four of the papers delivered by the participants. This year's conference also included presentations from students attending the Radboud University, Nijmegen, in the Netherlands.

The first article is written by Frank Biemans, entitled "Dutch taxation of irrevocable discretionary private express trusts". In his article, the author examines the use of trusts for tax planning purposes, in particular the use of the irrevocable discretionary private express trust in Dutch tax planning schemes. The author concludes that the irrevocable discretionary private express should be qualified as non-transparent legal figure so that it can be taxed as a special purpose fund in the Corporate Income Tax.

In the second article, Laura Juarez, from Mexico, an LLM in Tax student at Queen Mary, University of London Tax Programme, analyses the right to deduct VAT on leases and financial leases. The author analyses in detail the judgment of the ECJ in *Eon Asset Management* and highlighted that the ECJ held in relation to financial leases that the taxpayer has a choice on how to treat the acquisition of capital goods, that is to say, for business or private use or partly for business and partly for private use. This gives three possibilities that affect the right to deduct VAT depending on how the acquisition of capital goods is treated.

The third article is based on a presentation delivered by Italian Rubina Fagioli, entitled "*Exit Taxes and Corporate Mobility: The 'DI.VI. Finanziaria' Case (C-380/11)*". In this article Fagioli discusses exit taxes in the regulatory framework for tax in the EU focusing in particular on corporate mobility in the EU and freedom of establishment. The author goes on to examine the main ECJ cases concerning exit taxes, including *Daily Mail*, *Cartesio* and *National Grid* as well as providing a comprehensive case note on the *DI.VI. Finanziaria* case.

Finally, Willem Biemans from the Radboud University, Nijmegen discusses the CCCTB, focusing in particular on the concept of "profit" in the proposed CCCTB Directive. The author points out that this concept of profit seems to be

comprehensive and solid and can be characterised as autonomous, and mainly rule-based incorporating only a few principle-based rules.

In the next four articles, Sophie Schurowski, of PWC, Frankfurt, examines the EU's new proposed Financial Transaction Tax (FTT); Gauthier Cruysmans discusses the Belgian "Notional Interest Deduction" (NID) tax regime; Dr Jorge Milla-Ibáñez of the University of Valencia writes about the favourable tax regime on offer in Spain's Canary Islands and Alex Altmann writes about EU Value Added Tax.

Schurowski details the proposed legislation and highlights its implementation procedure. She explains the enhanced cooperation procedure used to adopt this piece of EU tax legislation and analyses the possible risks such a FTT may have on the non-participating EU Member States and on the EU financial markets. Finally, she concludes that there are considerable uncertainties for the adoption of the FTT given the UK's challenge to the legality of the FTT.

Cruysmans discusses the Belgian "Notional Interest Deduction" (NID) tax regime which bestows excellent tax saving benefits on international groups. Cruysmans outlines the pressure Belgium is under to withdraw some of the regime's tax benefits yet still maintain a competitive tax regime attractive for foreign multinationals. He argues that it would be a mistake to abolish the NID regime as this would simply transfer the business activities to other countries.

Dr Milla-Ibáñez explains the *Zona Especial Canaria* (or ZEC) and highlights its key features and sets-out its key requirements. He demonstrates the considerable tax advantages of ZEC when compared with the tax regimes available in other European territories, pointing out that the regime has been found very attractive for two kinds of business: *first*, multinational groups that have a subsidiary in the ZEC area as a platform to enter into Africa (e.g. mine site and brownfield exploration, renewable energy sources) and, *second*, businesses that create lots of jobs and can operate anywhere (e. g.: call centres, customer relationship management, breweries).

Lastly, Alex Altmann writes about EU Value Added Tax. His contribution focuses on the simplification rules available for intra-EU transaction chains. Altmann argues that the costs of multiple registrations can be avoided by delivering the goods to the intermediate parties, but that solution results in additional shipping costs. The costs of additional registration can also be avoided by applying the simplification found in article 141 of the VAT Directive.

The final four articles of this issue cover "Exit Taxes", Remedies for taxpayers who have suffered financial loss and "State Aid".

In the first of two articles looking at Exit Taxes, Rubina Fagioli examines corporate mobility and exit taxation from an Italian perspective while Anne Dalheim Jacobsen, from Norway, asks “where are we now” and provides a comprehensive analysis of the exit tax jurisprudence of the ECJ.

Grahame Turner’s contribution discusses what happens when a tax rule of an EU/EEA Member State is found to be incompatible with EU law and the question of reparation is dealt with before a national court.

Finally, Mariella Rapa’s article examines the EU’s state aid rules and their relationship with national tax rules.

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